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10/711,967	10/15/2004	DEREK TAMURA		5966

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EXAMINER	
FU, HAO	

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3696	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/711,967	TAMURA, DEREK	
	Examiner	Art Unit	
	HAO FU	3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 17-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15, and 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Remarks

In the amendment and remarks filed on 06/17/2008, the applicant amended claim 1-3, 5, 7, 8, 13, 14, 18, and 20, at the same time canceled claim 16.

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. In the remarks, filed on 06/17/2008, the applicant did not address any prior art rejection. The applicant merely stated that rejection of claims "are not address in this writing and will be addressed in a future writing". Such response is not proper, and the cited prior arts are treated as admitted prior arts.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

Claim Objection

Claim 14 is objected because it does not further limit the claim which it depends on. Specifically, the language of the claim, which states "the leveraging mechanism is not limited to…", does not further limit the claim which it depends on. As such, claim 14 is determined to be an improper dependent claim under the definition of 35 U.S.C. 112 4th paragraph.

Claim 20 is objected for error in grammar. Specifically, the claim states "the Cash Flow Leveraging Mechanism is treated as both a cash holder and distribution

account and a short term loan". However, the Cash Flow Leveraging Mechanism is treated as three things, instead of two.

Claim Rejection – USC 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 7, 8, 13, 18, and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. These claims are significantly different from the original claims, and the examiner believes that the newly added material is not supported by the original disclosure in the specification. In order to overcome this rejection, the applicant must point out exactly where the support of these claims can be found in the specification. If the claims are determined not to be supported by the specification, even if the features are allowable by merits, cannot overcome the rejection of 35 U.S.C. 112 first paragraph. In that situation, the only way to overcome this rejection is to file a continuation-in-part with supporting specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 recites the limitation "provide a print out of the any one or more of the working budget scenarios ". There is insufficient antecedent basis for this limitation in the claim. The examiner notes that working budget scenarios was mentioned in the original claim 1. However, claim 1 as amended no longer contain such limitation, and as such, working budget scenarios in claim 4 lacks antecedent basis.

Claim Rejection – USC 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a 101 process must (1) be tided to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under 101 and should be rejected as being directed to non-statutory subject matter. In this case, the procedure in claim 1 is not tided to another statutory class. The language does not clearly suggest that the method is performed by another statutory class (such as an apparatus or system), and it may be performed entirely mentally. As such, claim 1 does not fall under any statutory subject matter.

Claim Rejection – USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-15, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanLeeuwn (Pub. No.: US 2002/0123949).

As per claim 1, VanLeeuwen teaches a method for reducing the repayment time of a loan with a series of payments that are not of fixed amounts with payments on dates that do not occur at regular intervals comprising the steps of:

user submittal of a chronological list of the user's cash flow amounts (see paragraph 0008, 0009, and 0027; prior art teaches receiving a chronological list of transaction data regarding to user's cash flow; even though the prior art discloses that the computer system automatically retrieves transaction data without user's input, which is different from user submittal in the present claim, it would have been obvious to one of ordinary skill to recognize the manual procedure; the prior art is considered as more advanced than the present invention in this regard);

user submittal of an installment loan amount and terms (see paragraph 0010 and 0011; prior art teaches storing debt or loan information, which includes loan amount and terms; it would have been obvious to one of ordinary skill in the art that the loan information is submitted by the user or representatives of the user);

user acquired a cash flow leveraging mechanism to collect, hold and make distributions of the user's gross income (according to applicant's definition on page 7 of the specification, a cash flow leveraging mechanism may be any bank or bank like product or service that allows the accumulation of cash and offers daily access to the account with no limits to the number of transactions paying into or out of the account; in light of applicant's definition, the examiner interprets a cash flow leveraging mechanism as a conventional checking or saving account; see paragraph 0025, prior art teaches establishing a bank account with the accelerated debt repayment module);

the floating payment format is used to calculate one or more non-fixed payment amounts and non-periodic payment dates on a daily basis (see paragraph 0024, prior art teaches allowing the user to apply varying payment amounts and power payments to

debts to determine what the outcome would be, such feature is understood as a floating payment format, and the prior art clearly disclose calculating different scenarios, and there is no reason to suggest why it cannot be done on a daily basis).

As per claim 2, VanLeeuwen teaches a list constructed and submitted by the user that lists each financial transaction of the user's gross income and expense amounts in a chronological order sorted by time of transaction and date of transaction over a period of time having a start time, start date, end time and end date (see paragraph 0008, 0009, 0027, 0028).

MPEP 2111.04
Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. However, examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are:
(A) " adapted to " or "adapted for " clauses;
(B) " wherein " clauses; and
(C) " whereby " clauses.

The determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. In Hoffer v. Microsoft Corp., 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "whereby' clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention." Id. However, the court noted (quoting Minton v. Nat 'l Ass 'n of Securities Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited.'" Id.

As per claim 3, the claim states whereby the sum total amount of the list of the user's gross income less expenses is a positive amount at the end date. The examiner determines that this claim is not given patentable weight, because the whereby clause merely express a wishful condition and intended result of the invention (see MPEP 2111.04 above). This is the expected result. However, the present claim does not disclose any more steps to the method being claimed.

As per claim 4, VanLeeuwen teaches method used in claim 1 uses specialized computer software to provide a print out of the any one or more of the working budget scenarios (see paragraph 0024, prior art teaches "what-if" calculations can be produced and output in a report format, the examiner interprets this feature as equivalent to providing a print out of working budget scenarios, because one of the ordinary skill in the art would interpret a "what-if" calculation as a theoretical scenario).

As per claim 5, VanLeeuwen teaches wherein the loan that this invention is to be applied to is selected by the user and is an installment type loan defined by the user as

a principal debt amount of cash, money or other valuable resources; and serviced by regularly scheduled installment payment amounts; to repay or pay down the principal balance, loan fees, interest costs and other associated costs, the interest rate; term in time and any prepayment penalties that this invention is to be applied to (see paragraph 0059 and 0060).

As per claim 6, VanLeeuwen teaches ranking each debt to determine the selection of the first target debt and the order of each successive debt targeted for accelerated elimination (see paragraph 0010, 0011, and 0041).

As per claim 7, VanLeeuwen teaches wherein the floating payment format calculates the current varying payment amounts to be paid to the user defined loan on those dates and at those times when income to the cash flow leveraging mechanism creates a balance that is equal to or greater than the settled reserve balance as defined by the user (see paragraph 0050-0058).

As per claim 8, VanLeeuwen teaches wherein the amount, date and time of each extra loan payment is calculated by the floating payment format and each event is added to the user's chronological list of income and expense events as an expense event and that each payment amount made from the Cash Flow Leveraging Mechanism is defined by the user as a percentage of the balance in the Cash Flow Leveraging Mechanism on date 0 (see paragraph 0050-0058).

As per claim 9, VanLeeuwen teaches expands a budget's disposable income by causing accelerated retirement of one or more target debts then, as each debt is retired, the funds formerly used to service each retired debt is disposable income available for other expenses (see paragraph 0050-0056).

As per Claim 10, VanLeeuwen teaches the method used in claim 1 accelerates debt pay off and/or expands a budget's disposable income at the option of the budget operator (see paragraph 0031, prior art teaches giving user option of whether to continue the accelerating debt pay off).

As per claim 11, VanLeeuwen teaches the method used in claim 1 works without a need to increase a budgets cash flow income volume or causing budget cuts (see paragraph 0038-0057, it is apparent from the example that the method does not require increase cash flow income) by using the working budget created from the specialized computer software (see paragraph 0027-0037).

As per claim 12, VanLeeuwen teaches the method used in claim 1 works without a need to increase cash flow income (see paragraph 0038-0057, it is apparent from the example that the method does not require increase cash flow income) using the working budget which factors in existing cash flow restrictions (see paragraph 0027-0030 for calculating working budget which factors in existing cash flow restrictions), reallocating

funds formerly used to service each retired debt (see paragraph 0050-0056) and employing of a no cost or low cost cash flow leveraging mechanism (according to applicant's definition, the examiner interprets the cash flow leveraging mechanism as any conventional checking or saving accounts, see discussion on claim 1; it would have been obvious that checking or saving accounts are no cost or low cost).

As per claim 13, VanLeeuwen teaches wherein the leveraging mechanism allowing non-scheduled "at will" cash or credit transactions is any type of bank checking, savings, money market account or similar depository allowing the user to freely deposit or pay to the account and withdraw or draw resources from the account to make transfers, payments or deposits of cash, money or other valuable resources freely transferable by the user into the user's checking or similar bank like account (see paragraph 0025, prior art teaches establishing a bank account with the accelerated debt repayment module, which serves the same function as the leveraging mechanism; one of ordinary skill in the art would have known that a conventional bank account is any type of bank checking, savings, money market account or similar depository allowing the user to freely deposit or pay to the account and withdraw or draw resources from the account to make transfers, payments or deposits of cash, money or other valuable resources freely transferable by the user into the user's checking or similar bank like account).

As per claim 14, the claim states wherein the leveraging mechanism is not limited to any bank, bank like product or service or traditional banking system, is a credit or revolving credit account such as credit card, line of credit, letter of credit, margin account and any other type of credit account or depository that makes available cash, money or other valuable resources freely transferable by the user into the user's Cash Flow Leveraging Account.

Such claim does not further limit the claim which it depends on. Therefore, no patentable weight is given to this claim, and it is rejected for the same reason cited in claim 1 and claim 13.

As per claim 15, VanLeeuwen teaches the method used in claim 1 works using a cash flow leveraging mechanism that, if not used, costs nothing, and if used, would serve to supplement the current cash flow by providing no cost or very low cost cash (according to applicant's definition, the examiner interprets the cash flow leveraging mechanism as any conventional checking or saving accounts, see discussion on claim 1; see paragraph 0025, prior art teaches establishing a bank account with the accelerated debt repayment module; it would have been obvious that checking or saving accounts cost nothing if not used, and serve to supplement the current cash flow by providing no cost or very low cost cash).

Claim 16 (canceled)

As per claim 17, VanLeeuwen teaches the method used in claim 1 uses the cash flow leveraging mechanism to leverage a budget's cash flow and have funds available to pay regular expenses as the expense becomes due (see paragraph 0029, 0030, and 0037).

As per claim 20, VanLeeuwen teaches the method in claim 1, wherein the Cash Flow Leveraging Mechanism is treated as both a cash holder and distribution account and a short term loan without having periodic payments due to the Cash Flow Leveraging Mechanism as the user's income is paid to the Cash Flow Leveraging Mechanism on the day the income is received (according to applicant's definition, the examiner interprets the cash flow leveraging mechanism as any conventional checking or saving accounts, see discussion on claim 1; see paragraph 0025, prior art teaches establishing a bank account with the accelerated debt repayment module; it would have been obvious to one of ordinary skill in the art that many conventional bank account can be treated as both a cash holder, i.e. saving account or checking account, distribution account, i.e. checking account, and a short term loan, it is known that certain checking account allows user to withdraw more than they have for some interest fee).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over

VanLeeuwn (Pub. No.: US 2002/0123949), in view of Official Notice.

As per claim 18, VanLeeuwen does not teach wherein the leveraging mechanism allows the abundance of resources of the user to accumulate in the leveraging mechanism until such time that the accumulated resources totals or exceeds the original leveraging mechanism amount had on date 0, thus triggering an available occurrence to withdraw or a draw from the leveraging mechanism to be paid to the loan principal.

Official Notice is taken that setting a threshold on an account balance and whenever the balance exceeds the threshold, the additional amount is used towards paying the loan principal, is old and well known in the art. Accelerated debt repayment is a known prior art to the present invention. Prior to the present invention, debtors had been allowed to pay additional payment towards the principal owed. If the debtors are looking for the maximum debt reduction effect, it is expected that they will pay the maximum they can afford. Therefore, it is logical and expected to set a threshold on an account balance and use the extra amount to pay down the principal.

In light of the court decision on KSR, applying known procedure to known method to achieve predictable result is obvious. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include wherein the leveraging mechanism allows the abundance of resources of the user to accumulate in the leveraging mechanism until such time that the accumulated resources totals or exceeds the original leveraging mechanism amount had on date 0,

thus triggering an available occurrence to withdraw or a draw from the leveraging mechanism to be paid to the loan principal.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over VanLeeuwn (Pub. No.: US 2002/0123949), in view of Smith (Pub. No.: US 2006/0064366).

As per claim 19, VanLeeuwen does not teach requiring the budget to immediately pay the entire cash flow income to the cash flow leveraging mechanism prior to expense/debt payments or cash out transactions.

Smith teaches requiring the budget to immediately pay the entire cash flow income to the cash flow leveraging mechanism prior to expense/debt payments or cash out transactions (see paragraph 0005 and 0006, prior art discloses that all of the net cash flow will be required to be deposited in the Cash Trap Escrow Account, which is a cash flow leveraging mechanism as discussed on claim 1).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the reference to include requiring the budget to immediately pay the entire cash flow income to the cash flow leveraging mechanism prior to expense/debt payments or cash out transactions.

One of ordinary skill in the art would have been motivated to modify the reference in order to maintain a fund reserve for debt payoff.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO FU whose telephone number is (571)270-3441. The examiner can normally be reached on Mon-Fri/Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AUG-08

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